

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB678)

Received: **1/27/2014** Received By: **agary**
Wanted: **As time permits** Same as LRB:
For: **Chad Weininger (608) 266-5840** By/Representing: **Alison Zikmund**
May Contact: Drafter: **agary**
Subject: **Fin. Inst. - banking inst.** Addl. Drafters:
Fin. Inst. - int. rates/loans Extra Copies:

Submit via email: **YES**
Requester's email: **Rep.Weininger@legis.wisconsin.gov**
Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Changes relating to mortgage lending

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 1/28/2014			_____			
/P1	agary 1/30/2014	jdye 1/29/2014	jfrantze 1/29/2014	_____	sbasford 1/29/2014		
/1		jdye 1/30/2014	jfrantze 1/30/2014	_____	mbarman 1/30/2014	mbarman 1/30/2014	

FE Sent For:

<END>

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No specific pre topic given

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Changes relating to mortgage lending ✓

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/?	agary 1/28/2014	1/30 jld	jd	1/30 jld			
/P1		jdye 1/29/2014	jfrantze 1/29/2014		sbasford 1/29/2014		

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/?	agary	PI ka jcd	jd	1/29			

FE Sent For:

<END>

Gary, Aaron

From: Zikmund, Alison
Sent: Monday, January 27, 2014 2:44 PM
To: Gary, Aaron
Cc: Schacht, Nathan
Subject: FW: amendment LRB 3853

Aaron,

Here is some of the language we would like made into an amendment to LRB 3853. We plan to introduce the /2 version today, so we prefer an amendment with this new language instead of a /3 version.

Also, please keep the amendment in progress for the time being. We may have something more to add.

Thanks.

Alison Zikmund
Office of Rep. Chad Weininger
(608) 266-1184

From: Schacht, Nathan
Sent: Monday, January 27, 2014 2:41 PM
To: Zikmund, Alison
Subject: amendment

This can be put in amendment. Keep the amendment open. Won't be finalized until Wed.

Please get the Sec 33 language to me asap so DFI can review.

Section 33 prohibits principal office from being located in a residence. We'd like to grandfather current principle offices that are located in residences. We'd like to ensure that the current address is grandfathered and not the license holder (so if they move they lose the exemption). This grandfather clause will also need to be carried over into section 57 restriction on where records can be kept. DFI recommends doing this by limiting the exemption to current license holders and making the exemption none transferable.

Section 36 fee referenced in line 20, please delete "shall pay the fee specified by the division" to "shall pay the same fee as that established by rule under s. 224.72(8) for mortgage bankers."

Section 36: Please at "Applications for branch registrations shall be made on forms and in the manner prescribed by the division, and shall be accompanied by the same fee as that established by rule under s. 224.72(8) for branch offices." to sub (3).

Nathan Schacht
Office of State Representative David Craig
83rd Assembly District
P: (608) 266-3363
E: nathan.schacht@legis.wi.gov

NOTE: Emails sent to and from this account may be subject to open records requests and should not be considered private.

Gary, Aaron

From: Schacht, Nathan
Sent: Monday, January 27, 2014 5:20 PM
To: Gary, Aaron; Zikmund, Alison
Subject: RE: amendment LRB 3853

Hold off on that then. I'll follow up tomorrow.

Nathan Schacht
Office of State Representative David Craig

From: Gary, Aaron
Sent: Monday, January 27, 2014 5:18 PM
To: Schacht, Nathan; Zikmund, Alison
Subject: RE: amendment LRB 3853

This will require moving various pieces around in the draft.

I assume what you want is to exclude from the definition of mortgage loan originator a person whose activities are limited to those described.

(The plain language of what you sent says that if a person does any of the listed activities, the person is not an m.lo., regardless of what other activities the person might be engaged in.)

Aaron

From: Schacht, Nathan
Sent: Monday, January 27, 2014 4:55 PM
To: Zikmund, Alison; Gary, Aaron
Subject: RE: amendment LRB 3853

Aaron,

Please add the attached into the amendment as well. I'll have answers to your other questions early tomorrow morning.

Nathan Schacht
Office of State Representative David Craig

From: Zikmund, Alison
Sent: Monday, January 27, 2014 2:44 PM
To: Gary, Aaron
Cc: Schacht, Nathan
Subject: FW: amendment LRB 3853

Aaron,

Here is some of the language we would like made into an amendment to LRB 3853. We plan to introduce the /2 version today, so we prefer an amendment with this new language instead of a /3 version.

Also, please keep the amendment in progress for the time being. We may have something more to add.

Thanks.

neither receives nor expects any compensation from a loan originator or creditor for referring the consumer. HUD-approved housing counselors who simply assist a consumer in obtaining or applying to obtain consumer credit from a loan originator or creditor are not loan originators if the compensation is not contingent on referrals or on engaging in additional loan origination activities and either of two alternative conditions is satisfied: The first alternative condition is that the compensation is expressly permitted by applicable local, State, or Federal law that requires counseling and the counseling performed complies with such law (for example, § 1026.34(a)(5) and § 1026.36(k)). The second alternative condition is that the compensation is a fixed sum received from a creditor, loan originator, or the affiliate of a loan originator or a creditor as a result of agreements between creditors or loan originators and local, State, or Federal agencies. However, HUD-approved housing counselors are loan originators if, for example, they receive compensation that is contingent on referrals or on engaging in loan originator activity other than assisting a consumer in obtaining or applying to obtain consumer credit from a loan originator or creditor.

* * * * *

4. *Managers, administrative and clerical staff.* For purposes of § 1026.36, managers, administrative and clerical staff, and similar individuals who are employed by (or contractor or agent of) a creditor or loan originator organization and take an application, offer, arrange, assist a consumer in obtaining or applying to obtain, negotiate, or otherwise obtain or make a particular extension of credit for another person are loan originators. The following examples describe activities that, in the absence of any other activities, do not render a manager, administrative or clerical staff member, or similar employee a loan originator:

i. *Application-related administrative and clerical tasks.* The definition of loan originator does not include persons who at the request of the consumer provide an application form to the consumer; accept a completed application form from the consumer; or, without assisting the consumer in completing the application, processing or analyzing the information, or discussing specific credit terms or products available from a creditor with the consumer, deliver the application to a loan originator or creditor. A person does not assist the consumer in completing the application if the person explains to the consumer

filling out the application the contents of the application or where particular consumer information is to be provided, or generally describes the loan application process to a consumer without discussion of particular credit terms or products available from a creditor.

ii. *Responding to consumer inquiries and providing general information.* The definition of loan originator does not include persons who:

A. Provide general explanations, information, or descriptions in response to consumer queries, such as explaining credit terminology or lending policies or who confirm written offer terms already transmitted to the consumer;

B. As employees of a creditor or loan originator, provide loan originator or creditor contact information in response to the consumer's request, provided that the employee does not discuss particular credit terms available from a creditor and does not refer the consumer, based on the employee's assessment of the consumer's financial characteristics, to a particular loan originator or creditor seeking to originate particular credit transactions to consumers with those financial characteristics;

C. Describe other product-related services; or

D. Explain or describe the steps that a consumer would need to take to obtain an offer of credit, including providing general guidance on qualifications or criteria that would need to be met that is not specific to that consumer's circumstances.

iii. *Loan processing.* The definition of loan originator does not include persons who, acting on behalf of a loan originator or a creditor:

A. Compile and assemble credit application packages and supporting documentation;

B. Verify information provided by the consumer in a credit application such as by asking the consumer for supporting documentation or the consumer's authorization for the person to obtain supporting documentation from other persons;

C. Arrange for consummation of the credit transaction or for other aspects of the credit transaction process, including by communicating with a consumer about those arrangements, provided that any communication that includes a discussion about credit terms available from a creditor only confirms credit terms already agreed to by the consumer;

D. Provide a consumer with information unrelated to credit terms, such as the best days of the month for scheduling consummation; or

E. Communicate on behalf of a loan originator that a written credit offer has been sent to a consumer without providing any details of that offer.

iv. *Underwriting, credit approval, and credit pricing.* The definition of loan originator does not include persons who:

A. Receive and evaluate a consumer's information to make underwriting decisions on whether a consumer qualifies for an extension of credit and communicate decisions to a loan originator or creditor, provided that only a loan originator communicates such underwriting decisions to the consumer;

B. Approve credit terms or set credit terms available from the creditor in offer or counter-offer situations, provided that only a loan originator communicates to or with the consumer regarding these specific credit terms, an offer, or provides or engages in negotiation, a counter-offer, or approval conditions; or

C. Establish credit pricing that the creditor offers generally to the public, via advertisements or other marketing or via other persons that are loan originators.

v. *Producing managers.* Managers that work for creditors or loan originator organizations sometimes engage themselves in loan origination activities, as set forth in the definition of loan originator in § 1026.36(a)(1)(i) (such managers are sometimes referred to as "producing managers"). The definition of loan originator includes persons, including managers, who are employed by a creditor or loan originator organization and take an application, offer, arrange, assist a consumer with obtaining or applying to obtain, negotiate, or otherwise obtain or make a particular extension of credit for another person, even if such persons are also employed by the creditor or loan originator organization to perform duties that are not loan origination activities. Thus, such producing managers are loan originators.

5. *Compensation.* i. *General.* For purposes of § 1026.36, compensation is defined in § 1026.36(a)(3) as salaries, commissions, and any financial or similar incentive. For example, the term "compensation" includes:

A. An annual or other periodic bonus; or

B. Awards of merchandise, services, trips, or similar prizes.

ii. *Name of fee.* Compensation includes amounts the loan originator retains and is not dependent on the label or name of any fee imposed in connection with the transaction. For example, if a loan originator imposes a

Gary, Aaron

From: Schacht, Nathan
Sent: Tuesday, January 28, 2014 5:07 PM
To: Gary, Aaron; Zikmund, Alison
Subject: RE: amendment LRB 3853

Importance: High

Aaron,

Please delete all underlined language on page 8, lines 4-6.

Go ahead and send the amendment to AB 678 over as a P1 after all this is done.

Thank you for all the help.

-Nate

Nathan Schacht
Office of State Representative David Craig

From: Schacht, Nathan
Sent: Tuesday, January 28, 2014 10:57 AM
To: Gary, Aaron; Zikmund, Alison
Subject: RE: amendment LRB 3853

Let's do this instead. Delete section 22 and don't repeal the 224.71(8) (section 24).

Regarding your concerns on the Section 36, I discussed with DFI and they see your point. Let's leave your language in there.

Lastly, regarding the Section 33 grandfather clause. The language you sent over works well, let's use that.

Keep this amendment open for now. I may have more this afternoon.

Nathan Schacht
Office of State Representative David Craig

From: Gary, Aaron
Sent: Monday, January 27, 2014 5:18 PM
To: Schacht, Nathan; Zikmund, Alison
Subject: RE: amendment LRB 3853

This will require moving various pieces around in the draft.

I assume what you want is to exclude from the definition of mortgage loan originator a person whose activities are limited to those described.

(The plain language of what you sent says that if a person does any of the listed activities, the person is not an m.lo., regardless of what other activities the person might be engaged in.)

Aaron



TODAY
AM



in
1/29

jd

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT,
TO ASSEMBLY BILL 678

- 1 At the locations indicated, amend the bill as follows:
- 2 1. Page 7, line 24: delete "(c) and (d) (intro.)" and substitute "(c) and (d)". ✓
- 3 2. Page 7, line 24: delete "and (d) (intro.), as" and substitute ", as". ✓
- 4 3. Page 7, line 25: delete "are" and substitute "is". ✓
- 5 4. Page 8, line 4: delete lines 4 to 6. ✓
- 6 5. Page 8, line 18: delete lines 18 to 25. ✓
- 7 6. Page 9, line 9: delete that line. ✓
- 8 7. Page 12, line 1: after "(b)" insert "1.". ✓
- 9 8. Page 12, line 2: delete "A" principal and substitute "Except as provided in ✓ subd. 2.,
a. ✓ principal
- 10
- 11 9. Page 12, line 3: after that line insert:

1 "2. A principal office of a mortgage banker or mortgage broker located in a
2 residence on the effective date of this subdivision[✓].... [LRB inserts date] may continue
3 to be located in that residence after this date but may not thereafter be relocated to
4 any residence with a different address."[✓]

5 **10.** Page 12, line 20: delete the material beginning with "fee" and ending with
6 "division" on line 21[✓] and substitute "same fee as that established by rule under s.
7 [✓]224.72 (8) for mortgage bankers".[✓]

8 **11.** Page 19, line 16: after "residence" insert "unless the residence is
9 authorized as a principal office under s. [✓]224.72 (2m) (b) 2.".

10 (END)

Gary, Aaron

From: Schacht, Nathan
Sent: Wednesday, January 29, 2014 3:45 PM
To: Gary, Aaron
Subject: RE: Branch office language for registered entities

DFI thinks #5 should reference sub (6) instead of sub (3). Let me know what you think.

I'll follow up early tomorrow afternoon to close down the amendment edits with this language added to the original language you had.

Thanks.

Nathan Schacht
Office of State Representative David Craig

From: Gary, Aaron
Sent: Wednesday, January 29, 2014 2:39 PM
To: Schacht, Nathan
Subject: Branch office language for registered entities

Nate,
Attached is the proposed amendment language for the branch office changes.

Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

1/29 tlc w/ Nate

p. 13 - sub. (3) - this should
be registered branch - DFI
wants to fix this

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1538/P2ins
ARG:.....

For drafting file

- 1.** Page 13, line 4: delete “obtain and maintain a license for” and substitute “register with the division”.
- 2.** Page 13, line 6: after “originator.” insert “Applications for branch office registration shall be made on forms and in the manner prescribed by the division and shall be accompanied by the same fee as that established by rule for branch offices of mortgage bankers.”.
- 3.** Page 13, line 7: on lines 7 and 9, after “status” insert “, and the registration of all of its registered branch offices,”.
- 4.** Page 13, line 11: delete “and all required renewal fees” and substitute “for the registered entity and for each branch office, along with the applicable fee under sub. (1) or (3)”.
- 5.** Page 13, line 16: after “expire.” insert “If a registered entity fails to satisfy any requirement under sub. ⁽⁶⁾~~(3)~~ for renewing its registration of a branch office, the registration for that branch office shall expire.”.

Gary, Aaron

From: Gary, Aaron
Sent: Wednesday, January 29, 2014 1:44 PM
To: Schacht, Nathan
Subject: RE: Branch office language for registered entities

On the whole it looks fine, with two caveats:

1. Regarding the middle paragraph below, my proposed sub. (3) at the bottom and item 10 in LRBa1538/P1 already address the fee issue. I assume that, for renewal fees, we can simply refer back to the fees under subs. (1) and (3). (As I noted before, s. 224.72 (8) does not refer to fees for branch offices).
2. Regarding the third paragraph below, unlike registration of registered entities, there are no minimum standards for branch office registration, except payment of the fee and use of the proper form. So it doesn't seem appropriate to me to refer to failure to satisfy minimum standards for branch office registration when there don't seem to be any.

I started an insert with these changes. If you want to see what the amendment language would look like, I can email you the insert.

Aaron

From: Schacht, Nathan
Sent: Wednesday, January 29, 2014 1:22 PM
To: Gary, Aaron
Subject: FW: Branch office language for registered entities
Importance: High

Thoughts?

Nathan Schacht
Office of State Representative David Craig

From: Plale, Jean M - DFI [<mailto:Jean.Plale@dfi.wisconsin.gov>]
Sent: Wednesday, January 29, 2014 1:12 PM
To: Schacht, Nathan; Maxwell, Georgia E - DFI; Green, Chris N - DFI; Mach, Mike J - DFI
Subject: RE: Branch office language for registered entities

Nate - we are fine with the language proposed in your email. However, I believe we still need to add back language similar to what we had in our draft 3 regarding when the branch office registrations expire, how they we can be renewed, and what happens if they fail to meet the renewal standards.

From our draft 3

The registered entity status of a depository institution, and all of its registered branch offices, expires on December 31 of each year.

A registered entity may apply to renew its entity and branch office registrations by timely submitting, on forms and in the manner prescribed by the division, completed renewal applications for the entity and each branch office location. Such applications shall be accompanied by the same fee as that established by rule under s. 224.72(8) for mortgage bankers and branch offices. The division may not renew a registered entity status under this section unless the division finds that the registered entity continues to meet the minimum standards for such registration.

If a registered entity fails to satisfy the minimum standards for renewal of its entity registration, or of any of its branch registrations, such registration shall expire.

From: Schacht, Nathan [<mailto:Nathan.Schacht@legis.wisconsin.gov>]
Sent: Wednesday, January 29, 2014 12:51 PM
To: Maxwell, Georgia E - DFI; Plale, Jean M - DFI; Green, Chris N - DFI
Subject: Branch office language for registered entities
Importance: High

Please let me know ASAP what you think of using this language:

(3) Each registered entity shall register with the division each branch office where a mortgage loan originator sponsored by the registered entity engages in business as a mortgage loan originator. Applications for branch office registration shall be made on forms and in the manner prescribed by the division and shall be accompanied by the same fee as that established by rule for branch offices of mortgage bankers.

Nathan Schacht

Office of State Representative David Craig

83rd Assembly District

P: (608) 266-3363

E: nathan.schacht@legis.wi.gov

NOTE: Emails sent to and from this account may be subject to open records requests and should not be considered private.

Gary, Aaron

From: Schacht, Nathan
Sent: Thursday, January 30, 2014 11:07 AM
To: Gary, Aaron
Cc: Zikmund, Alison
Subject: FW: Branch office language for registered entities
Attachments: 13a1538/P2ins.pdf

Please add this (with the #5 sub 6 rather than 3 change) to the original P1 amendment and send the stripes over to Rep. Weininger.

Thank you for all the help.

Nathan Schacht
Office of State Representative David Craig

From: Gary, Aaron
Sent: Wednesday, January 29, 2014 2:39 PM
To: Schacht, Nathan
Subject: Branch office language for registered entities

Nate,

Attached is the proposed amendment language for the branch office changes.

Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us



State of Wisconsin
2013 - 2014 LEGISLATURE

in
1/30



LRBa1538/1

ARG:jld:jf

TODAY

RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~
**ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 678**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 7, line 24: delete "(c) and (d) (intro.)" and substitute "(c) and (d)".

3 **2.** Page 7, line 24: delete "and (d) (intro.), as" and substitute ", as".

4 **3.** Page 7, line 25: delete "are" and substitute "is".

5 **4.** Page 8, line 4: delete lines 4 to 6.

6 **5.** Page 8, line 18: delete lines 18 to 25.

7 **6.** Page 9, line 9: delete that line.

8 **7.** Page 12, line 1: after "(b)" insert "1".

9 **8.** Page 12, line 2: delete "A principal" and substitute "Except as provided in
10 subd. 2., a principal".

11 **9.** Page 12, line 3: after that line insert:

“2. A principal office of a mortgage banker or mortgage broker located in a residence on the effective date of this subdivision ... [LRB inserts date], may continue to be located in that residence after this date but may not thereafter be relocated to any residence with a different address.”.

10. Page 12, line 20: delete the material beginning with “fee” and ending with “division” on line 21 and substitute “same fee as that established by rule under s. 224.72 (8) for mortgage bankers”.

11. Page 19, line 16: after “residence” insert “unless the residence is authorized as a principal office under s. 224.72 (2m) (b) 2.”.

(END)

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1538/1ins
ARG:.....

1
2
3 **1.** Page 13, line 4: delete “obtain and maintain a license for” and substitute
4 “register with the division”.✓

5 **2.** Page 13, line 6: after “originator.” insert “Applications for branch office
6 registration shall be made on forms and in the manner prescribed by the division and
7 shall be accompanied by the same fee as that established by rule for branch offices
8 of mortgage bankers.”.✓

9 **3.** Page 13, line 7: on lines 7 and 9, after “status” insert “, and the registration
10 of all of its registered branch offices,”.✓

11 **4.** Page 13, line 11: delete “and all required renewal fees” and substitute “for
12 the registered entity and for each branch office, along with the applicable fee under
13 sub. (1) or (3)”.✓

14 **5.** Page 13, line 16: after “expire.” insert “If a registered entity fails to satisfy
15 any requirement under sub. (6) for renewing its registration of a branch office, the
16 registration for that branch office shall expire.”.✓
17

Insert
2-7